

# **Central Intelligence Agency**

## **FREEDOM OF INFORMATION ACT ANNUAL REPORT**

### **FISCAL YEAR 2005**

[This report contains information in the format specified in Department of Justice guidance to the EFOIA. Text in *italics* is the information provided in response to specified headings.]

#### **I. Basic Information Regarding Report**

A. Name, title, address, and telephone number of person to be contacted with questions about the report.

*Scott A. Koch  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington D.C. 20505  
(703) 613-1287*

B. Electronic address for report on the World Wide Web.

*<http://www.foia.cia.gov>*

C. How to obtain a copy of the report in paper form.

*Write to the above address.*

#### **II. How to Make a FOIA Request**

*Submit a written request to the mail address above. Transmission via facsimile also is acceptable. The facsimile number is (703) 613-3007. Although a simple letter request is sufficient, see our FOIA web site at the electronic address at section I. B., above, for suggestions in making your request.*

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

*The mailing address in section I. A., above, is the single, central office which receives all FOIA requests for the CIA.*

B. Brief description of the agency's response-time ranges.

*For those FOIA cases closed in FY 2005, 80% were closed in 190 days; median response time was 66 days; average response time was 212 days.*

*For those Privacy Act cases closed in FY 2005, 80% were closed in 77 days; median response time was 22 days; average response time was 91 days.*

C. Brief description of why some requests are not granted.

*Among other things, the CIA has consistently protected classified national security information, information relating to intelligence sources and methods, and organizational information from release under the FOIA.*

### **III. Definitions of Terms and Acronyms Used in the Report**

A. Agency-specific acronyms or other terms.

*None.*

B. Basic terms, expressed in common terminology.

1. FOIA/PA Request – Freedom of Information Act/Privacy Act request. A FOIA request generally is a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request – a request to a federal agency for access to records under the Freedom of Information Act.

3. Appeal – a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal – a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. Multi-track Processing – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are

processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited Processing – an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple Request – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.

8. Complex Request – a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

9. Grant – an agency decision to disclose all records in full in response to a FOIA request.

10. Partial Grant – an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.

11. Denial – an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to an FOIA request).

12. Time Limits – the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily, 20 working days from proper receipt of a “perfected” FOIA request).

13. “Perfected” Request – a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 Statute – a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average Number – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

#### **IV. Exemption 3 Statutes**

List of Exemption 3 Statutes relied on by agency during current fiscal year.

(1) *Section 103(c)(7) of the National Security Act of 1947, as amended, codified at 50 U.S.C. § 403-3(c)(7).*

(2) *Section 6 of the Central Intelligence Agency Act of 1949, as amended, codified at 50 U.S.C. § 403g.*

(3) *Statute: 26 U.S.C. § 6103*

1. Brief description of type(s) of information withheld under each statute.

*Pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 (“the Act”), Pub. L. No. 108-458, S. 2845 (2004), the Director of National Intelligence is specifically empowered with the authority to protect intelligence sources and methods. See 50 U.S.C.A. § 403-1(i). The Director of the Central Intelligence Agency is no longer vested, as the DCI was under 50 U.S.C. § 403-3(c)(7), with delegated authority to protect such information. Before the effective date of the Act, the CIA claimed FOIA exemption (b)(3) pursuant to former 50 U.S.C. § 403-3(c)(7).*

*Among other things, the Central Intelligence Agency Act of 1949 authorizes the Agency to protect CIA budget information from disclosure and information relating to the organization, functions, names, official titles, salaries, or numbers of personnel employed by the CIA, including information relating to intelligence sources and methods.*

*26 U.S.C. 6103 prohibits the disclosure of tax returns and return information.*

2. Statement of whether a court has upheld the use of each statute. If so, cite example.

*Courts have upheld the use of the following statutes:*

*CIA v. Sims, 471 U.S. 159 (1985), National Security Act of 1947.*

*Halperin v. CIA, 629 F.2d 144 (D.C. Cir. 1980) (section 6, CIA Act of 1949).*

Minier v. CIA, 88 F.3d 796 (9<sup>th</sup> Cir. 1996) - section 6, CIA Act of 1949.

Church of Scientology v. IRS, 484 U.S. 9 (1987)

See “U.S. Department of Justice Freedom of Information Act Guide and Privacy Act Overview” for additional examples.

## **V. Initial FOIA/PA Access Requests**

### **A. Numbers of initial requests.**

1. Requests pending as of end of preceding year: 1,150
2. Requests received during current fiscal year: 2,935
3. Requests processed during current fiscal year: 3,110
4. Requests pending as of end of current fiscal year: 975

### **B. Disposition of initial requests.**

1. Number of total grants: 334
2. Number of partial grants: 1,051
3. Number of denials: 605

Number of times each FOIA exemption used (counting each exemption once per request):

- (1) Exemption 1: 810
- (2) Exemption 2: 80
- (3) Exemption 3: 1,108
- (4) Exemption 4: 17
- (5) Exemption 5: 50
- (6) Exemption 6: 137
- (7) Exemption 7(a): 5

(8) Exemption 7(b): 0

(9) Exemption 7(c): 52

(10) Exemption 7(d): 27

(11) Exemption 7(e): 56

(12) Exemption 7(f): 1

(13) Exemption 8: 0

(14) Exemption 9: 0

4. Other reasons for nondisclosure (total): 1,120

a. no records: 498

b. referrals: 92

c. request withdrawn: 1

d. fee-related reason: 0

e. records not reasonably described: 0

f. not a proper FOIA request for some other reason: 0

g. not an agency record: 0

h. duplicate request: 0

i. other: *Cancellations*: 529

*d thru i - CIA does not distinguish among reasons for cancellation. Although reasons are recorded in each case record, statistics are consolidated.*

## **VI. Appeals of Initial Denials of FOIA/PA Requests**

### **A. Numbers of appeals.**

1. Number of appeals received during fiscal year: 230

2. Number of appeals processed during fiscal year: 233

B. Disposition of appeals.

1. Number completely upheld: 100
2. Number partially reversed: 59
3. Number completely reversed: 3

Number of times each FOIA exemption used (counting each exemption once per appeal):

- (1) Exemption 1: 142
  - (2) Exemption 2: 10
  - (3) Exemption 3: 156
  - (4) Exemption 4: 1
  - (5) Exemption 5: 5
  - (6) Exemption 6: 11
  - (7) Exemption 7(a): 1
  - (8) Exemption 7(b): 0
  - (9) Exemption 7(c): 5
  - (10) Exemption 7(d): 2
  - (11) Exemption 7(e): 4
  - (12) Exemption 7(f): 0
  - (13) Exemption 8: 0
  - (14) Exemption 9: 0
4. Other reasons for nondisclosure (total): 71
    - a. no records: 63
    - b. referrals: 3

- c. request withdrawn: 0
- d. fee-related reason: 0
- e. records not reasonably described: 0
- f. not a proper FOIA request for some other reason: 0
- g. not an agency record: 0
- h. duplicate request: 0
- i. other: *Cancellations: 5*

*d thru i - CIA does not distinguish among reasons for cancellation. Although reasons are recorded in each case record, statistics are consolidated.*

## **VII. Compliance With Time Limits/Status of Pending Requests**

### **A. Median processing time for requests processed during the year.**

#### **1. Simple requests.**

- a. number of requests processed: 577
- b. median number of days to process: 7

#### **2. Complex request.**

- a. number of requests processed: 2,533
- b. median number of days to process: 68

#### **3. Requests accorded expedited processing.**

- a. number of requests processed: 0
- b. median number of days to process: *Not applicable*

### **B. Status of pending requests.**

- 1. Requests pending as of end of current fiscal year: 975



2. Median number of days that such requests were pending as of that date:  
*FOIA - 324; PA -99*

### **VIII. Comparisons With Previous Year(s)**

- A. Comparison of number of requests received:  
*2,935 in FY05 vs. 3,055 in FY04 vs. 3,136 in FY03*
- B. Comparison of number of requests processed:  
*3,110 in FY05 vs. 3,336 in FY04 vs. 3,252 in FY03*
- C. Comparison of median numbers of days requests were pending as of end of fiscal year:  
*FOIA – 324 in FY05 vs. 349 in FY04 vs. 480 in FY03*  
*PA – 99 in FY05 vs. 127 in FY04 vs. 221 in FY03*
- D. Other statistics significant to agency:  
*53 requests for expedited processing received in FY05, 0 requests granted vs. 18 requests for expedited processing received in FY04, 1 request granted – no statistic available for FY03.*

### **IX. Costs/FOIA Staffing**

- A. Staffing levels.
  1. Number of full-time FOIA personnel: *34*
  2. Number of personnel with part-time or occasional FOIA duties (estimated FTE): *40.1*
  3. Total estimated number of personnel (FTE): *74.1*
- B. Total estimated costs (including staff and all resources).
  1. FOIA processing (including appeals): *\$8.35 million*
  2. Litigation-related activities: *\$0.75 million*
  3. Total estimated costs: *\$9.1 million*
- C. Statement of additional resources needed for FOIA compliance (optional)

### **X. Fees**

- A. Total amount of fees collected by agency for processing requests: *\$1,258.40*

B. Percentage of total costs: *less than 1%*

## **XI. FOIA Regulations (Including Fee Schedule)**

*CIA FOIA and Privacy Act regulations are codified at 32 CFR Parts 1900 and 1901, respectively, and can be obtained by contacting the Information and Privacy Coordinator (see Sec. I of this report); by referencing the Federal Register / Vol. 62, No. 115 / Monday, June 16, 1997 (available at public libraries); or by accessing the Internet at **[http.foia.cia.gov](http://foia.cia.gov)** - - click on "Your Rights/Freedom of Information Act/Code of Federal Regulations...."*

30 January 2006